

SJ Quinney College of Law, University of Utah

## Utah Law Digital Commons

---

Utah Code Annotated 1943-1995

---

1988

### Title 41 Chapter 02: Operator's License Act - 1988

Utah Code Annotated

Follow this and additional works at: <https://dc.law.utah.edu/uca>

The Utah Code Annotated digital collection, hosted by Digital Commons, is brought to you for free and open access by the James E. Faust Law Library at the S.J. Quinney College of Law. Funds for this project have been provided by the Institute of Museum and Library Services through the Library Services and Technology Act and are administered by the Utah State Library Division. For more information, please contact [valeri.craigle@law.utah.edu](mailto:valeri.craigle@law.utah.edu).

---

#### Recommended Citation

Utah Code Annotated Title 41-2 (Michie, 1988)

This Book is brought to you for free and open access by Utah Law Digital Commons. It has been accepted for inclusion in Utah Code Annotated 1943-1995 by an authorized administrator of Utah Law Digital Commons. For more information, please contact [valeri.craigle@law.utah.edu](mailto:valeri.craigle@law.utah.edu).

# 41-1-194. Violation of article — Penalty.

Any person who violates this article is guilty of a class B misdemeanor, unless a different penalty is expressly provided by law.

**History:** C. 1953, 41-1-194, enacted by L. 1987, ch. 162, § 23.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

## CHAPTER 2 OPERATORS' LICENSE ACT

**Revision of Chapter.** — The provisions of this chapter were extensively revised by Laws 1987, Chapter 137.

Part 1		Section	
Definitions—Authorized Operation of a Motor Vehicle			
Section			system — Suspension procedures.
41-2-101.	Short title.	41-2-115.	Application of minors — Liability of person signing application — Cancellation of co-signing adult's liability.
41-2-102.	Definitions.		
41-2-102.5.	Administrative hearing procedure to be followed.	41-2-116.	Owner giving permission and minor liable for damages caused by minor operating vehicle.
41-2-103.	Fees — Schedule for operator licenses — Identification card.	41-2-117.	Examination of applicant's physical and mental fitness to operate motor vehicle.
41-2-104.	Operators must be licensed.	41-2-118.	Records to be filed — Suitable indices kept.
41-2-105.	Authorizing or permitting operation in violation of chapter — Renting of motor vehicles — License requirements.	41-2-119.	Fee for making report.
41-2-106.	Employees to operate motor vehicles must be licensed.	41-2-120.	Disposition of revenues under this chapter in Transportation Fund — Expenses of department provided by appropriation.
41-2-107.	Exemptions.		
41-2-108.	Nonresidents — When exempt from license.	41-2-121.	License certificates issued to operators by class of vehicle — Contents — Anatomical gifts indication — Temporary licenses — Minor's licenses and permits.
41-2-109.	Persons to whom license shall not be issued.	41-2-122.	Change of address — Duty of licensee to notify division within ten days — Method of giving notice by division.
41-2-110.	Examination of applicants — Class of license — Age and experience requirements to operate school bus or carrier — Class B misdemeanor to operate unauthorized class of vehicle — Waiver of driving examination by employer certification.	41-2-123.	Duplicate license certificate — Fee.
41-2-111.	Temporary learner permits — Instruction permits.	41-2-124.	License to be carried when driving — Production in court.
41-2-112.	Application for license — Nonrefundable fee — Contents — Proof of identity — Previous licenses surrendered — Driving record transferred from other states — Reinstatement — Additional fee.	41-2-125.	Expiration dates of licenses — Renewal — Extension without examination — Licensees in armed forces — Fees required.
41-2-113.	Restrictions.	41-2-126.	Court to report convictions and may recommend suspension of license — Severity of speeding violation defined.
41-2-114.	Only provisional license for persons under 21 — Separate point	41-2-127.	Offenses requiring mandatory revocation or suspension of li-

## MOTOR VEHICLES

Section		Section	
	cense — Offense requiring an extension of period — Hearing — Limited driving privileges.	41-2-308.	Local boards of education may conduct class for adults.
41-2-128.	Offenses which may result in suspension or revocation of license — Point system for traffic violations — Additional grounds for suspension — Reporting of traffic violation procedures.	41-2-309.	Violations — Penalties.
41-2-129.	Purpose of revocation or suspension for driving under the influence.		
41-2-130.	Chemical test for driving under the influence — Temporary license — Hearing and decision.		
41-2-131.	Judicial review of license cancellation, revocation or suspension.		
41-2-132.	New license after revocation.		
41-2-133.	Violation of license provisions.		
41-2-134.	Grounds for confiscation of licenses, plates, and other articles issued by state — Additional fee for reinstatement.		
41-2-135.	Making false affidavit is perjury.		
41-2-136.	Operating vehicle prohibited while license suspended or revoked — Penalties.		
41-2-137.	Violation of chapter — Class B misdemeanor.		
<b>Part 2</b>		<b>Part 4</b>	
<b>Licenses—Impaired Persons</b>		<b>Card of Identification</b>	
41-2-201.	Licensing of impaired persons — Medical review — Restricted license — Procedures.	41-2-401.	Definitions.
41-2-202.	Driver License Medical Advisory Board — Membership — Guidelines for licensing impaired persons — Recommendations to division.	41-2-402.	Application for identification card — Age requirements — Application on behalf of others.
		41-2-403.	Application for identification card — Required information.
		41-2-404.	Identification card — Contents — Specifications.
		41-2-405.	Minor's card distinguishable.
		41-2-406.	Expiration.
		41-2-407.	Fee required — Disposition of revenue.
		41-2-408.	Revocation of card for providing false information or altering card.
		41-2-409.	Violations.
		<b>Part 5</b>	
		<b>Drivers' License Compact</b>	
		41-2-501.	Ratification.
		41-2-502.	Text of compact — Party states to report traffic violations and exchange driving record information in home state of driver.
		41-2-503.	"Licensing authority" defined.
		41-2-504.	Expenses of compact administrator.
		41-2-505.	Executive head means governor.
		41-2-506.	Courts and agencies shall report actions to department.
		<b>Part 6</b>	
		<b>Nonresident Violator Compact</b>	
		41-2-601.	Authority to enter compact.
		41-2-602.	Definitions.
		41-2-603.	Procedure for issuing a traffic citation to a nonresident violator.
		41-2-604.	Procedure for home jurisdictions upon report of a licensee's failure to comply with out-of-state authority.
		41-2-605.	Rights of party jurisdictions not affected by compact.
		41-2-606.	Compact administrator.
		41-2-607.	Effective date of compact.
		41-2-608.	Violation exempted from compact.
		41-2-609.	Amendment to compact procedures — Suspension for non-compliance omitted from driving record reports.
<b>Part 3</b>			
<b>Commercial Driver Training Schools</b>			
41-2-301.	Definitions.		
41-2-302.	Rules — Inspections — Administration and enforcement.		
41-2-303.	School license required — Contents of rules.		
41-2-304.	Instructor license required — Contents of rules.		
41-2-305.	License expiration and renewal — Fee required — Disposition of revenue.		
41-2-306.	Licenses — Cancellation, revocation, or refusal to issue or renew — Ineligibility for license.		
41-2-307.	Exemption for college, university, and high school programs.		

**PART 1****DEFINITIONS — AUTHORIZED OPERATION OF A  
MOTOR VEHICLE****41-2-101. Short title.**

This chapter is known as the "Uniform Operator License Act."

**History:** C. 1953, 41-2-101, enacted by L.  
1987, ch. 137, § 1.

**COLLATERAL REFERENCES**

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 96 et seq.  
**C.J.S.** — 60 C.J.S. Motor Vehicles § 146 et seq.

**Key Numbers.** — Automobiles ⇨ 129 et seq.

**41-2-102. Definitions.**

As used in this chapter:

(1) "Cancellation" means the termination by action of the division of a license issued through error or fraud, or for which necessary consent has been withdrawn.

(2) "Class A license" means the class of license issued for vehicles with a manufacturer's recommended gross vehicle weight of 26,000 pounds or less when the vehicle is not operated as a contract carrier, common carrier, hazardous materials carrier, or school bus.

(3) "Commissioner" means the commissioner of the Department of Public Safety.

(4) "Common carrier" means any person who holds himself out to the public as willing to transport persons or the property of others from place to place by motor vehicle for compensation.

(5) "Contract carrier" means any person engaged in the transportation of property or persons by motor vehicle for compensation, under a continuing agreement with a person.

(6) "Division" means the driver license division of the Department of Public Safety.

(7) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(8) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for vehicular traffic.

(9) "License" means the privilege issued under this chapter to operate a motor vehicle.

(10) "License certificate" means the evidence of the privilege issued under this chapter to operate a motor vehicle.

(11) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but



not operated upon rails, except motorized wheelchairs and vehicles moved solely by human power.

(12) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(13) "Nonresident" means a person who is not a resident of this state and who has not sojourned or engaged in any gainful occupation in this state for an aggregate period of 60 days in the preceding 12 months, and also every person who is temporarily assigned by his employer to work in Utah.

(14) "Operator" means any person who is in actual physical control of a vehicle.

(15) "Owner" means a person other than a lienholder, having an interest in the property or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

(16) "Person" means every natural person, firm, partnership, association, or corporation.

(17) "Private carrier" means any person or company not included in the terms common carrier or contract carrier which transports property by motor vehicle, of which the person or company is the bona fide owner, lessee, or bailee and the transportation of the property is for the purpose of its sale, lease, or bailment or furtherance of any commercial enterprise, or who transports persons not for compensation.

(18) "Reportable violation" means an offense required to be reported to the driver license division as determined by the division, and includes those offenses against which points are assessed under Subsection 41-2-19(4) [Subsection 41-2-128(4)].

(19) "Revocation" means the termination by action of the division of a licensee's privilege to operate a motor vehicle.

(20) "School bus" means every publicly or privately owned motor vehicle designed for transporting ten or more passengers and operated for the transportation of children to or from school or school activities.

(21) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to operate a motor vehicle.

(22) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

**History:** L. 1933, ch. 45, § 1; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-3; L. 1951 (1st S.S.), ch. 9, § 1; 1967, ch. 81, § 1; 1983, ch. 183, § 4; C. 1953, § 41-2-1; renumbered by L. 1987, ch. 137, § 2; 1987, ch. 136, § 2.

**Amendment Notes.** — The 1987 amendment, by Chapter 136, so rewrote this section as to make a detailed analysis impracticable.

The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-1, and rewrote the section to the extent that a detailed analysis is impracticable.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Compiler's Notes.** — Section 41-2-19, referred to in Subsection (18), was renumbered as § 41-2-128 in 1987.

**Cross-References.** — Commissioner of public safety, § 41-13-2.

Division of Drivers' License and Accident Records, § 41-13-7(3).

Words and phrases defined by statute, construction of, § 68-3-11.

## NOTES TO DECISIONS

Cited in *State v. Milligan*, 727 P.2d 213 (Utah 1986).

### 41-2-102.5. Administrative hearing procedure to be followed.

The department and division shall comply with the procedures and requirements of Chapter 46b, Title 63, in their adjudicative proceedings.

**History:** C. 1953, 41-2-1.5, enacted by L. 1987, ch. 161, § 135.

**Meaning of "department".** — The term "department," referred to in this section, apparently means the Department of Public Safety. See § 41-2-102(6).

**Compiler's Notes.** — This section was en-

acted as § 41-2-1.5, and was subsequently renumbered by the Office of Legislative Research and General Counsel.

**Effective Dates.** — Laws 1987, ch. 161, § 315 makes the act effective on January 1, 1988.

### 41-2-103. Fees — Schedule for operator licenses — Identification card.

The following fees apply under this chapter:

- (1) operator: class A, B, C, D, or E license application under Subsection 41-2-112(1), \$10;
- (2) operator: class M license application under Subsection 41-2-112(1), \$8;
- (3) provisional license application under Subsection 41-2-112(1), \$15;
- (4) (a) license reinstatement application under Subsection 41-2-112(6), \$25; and  
(b) license reinstatement application under Subsection 41-2-112(6), if for an alcohol-related offense, an additional fee of \$25 in addition to the fee under Subsection (a);
- (5) duplicate license certificate under Subsection 41-2-123(1), \$5;
- (6) renewal of operator class A, B, C, D, or E license under Subsection 41-2-125(5), \$10;
- (7) renewal of operator class M license under Subsection 41-2-125(5), \$5;
- (8) renewal of license — 65 and older under Subsection 41-2-125(5), \$3;
- (9) extension of class A, B, C, D, or E license under Subsection 41-2-125(5), \$10;
- (10) extension of class M license under Subsection 41-2-125(5), \$5;
- (11) extension of license — 65 and older under Subsection 41-2-125(5), \$3;
- (12) administrative fee for license reinstatement after alcohol offense under Subsection 41-2-130(5)(e) or 41-6-44.10(2)(b), \$25;
- (13) administrative fee for license reinstatement after confiscation under Subsection 41-2-134(3), \$25;
- (14) identification card application under Subsection 41-2-407, \$5.

**History:** C. 1953, 41-2-103, enacted by L. 1987, ch. 137, § 3.

### 41-2-104. Operators must be licensed.

(1) No person, except one expressly exempted under Section 41-2-107, 41-2-108, or 41-2-111, or Subsection 41-2-121(4), or Chapter 22, Title 41, may operate a motor vehicle on a highway in this state unless the person is licensed as an operator by the division under this chapter.

(2) No person, except those exempted under Section 41-2-107, may operate or, while within the passenger compartment of a vehicle, exercise any degree or form of physical control of a vehicle being towed by a motor vehicle upon a highway unless the person holds a valid license issued under this chapter for the type or class of vehicle being towed.

**History:** C. 1933, ch. 45, § 2; C. 1943, 57-4-4; L. 1983, ch. 99, § 1; 1983, ch. 183, § 5; 1985, ch. 21, § 18; 1987, ch. 162, § 24; C. 1953, § 41-2-2; renumbered by L. 1987, ch. 137, § 4; 1987, ch. 162, § 24.

**Amendment Notes.** — The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-2, rewrote the section and designated it as Subsection (1), and added Subsection (2).

The 1987 amendment, by Chapter 162, inserted "or Chapter 22, Title 41," and made minor changes in phraseology and punctuation.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Cross-References.** — Pedestrian vehicles for physically disabled persons, § 41-6-82.50.

### COLLATERAL REFERENCES

**A.L.R.** — Carry or display operator's license or vehicle registration certificate, validity and construction of statute making a criminal offense for operator of a motor vehicle not to, 6 A.L.R.3d 506.

"Habitual," "persistent," or "frequent" violations of traffic regulations, validity and con-

struction of legislation authorizing revocation or suspension of operator's license for, 9 A.L.R.3d 756.

Validity, construction, and application of age requirements for licensing of motor vehicle operators, 86 A.L.R.3d 475.

### 41-2-105. Authorizing or permitting operation in violation of chapter — Renting of motor vehicles — License requirements.

(1) A person may not authorize or knowingly permit a motor vehicle owned by him or under his control to be operated by a person in violation of this chapter.

(2) (a) A person may not rent a motor vehicle to another person unless the latter person is licensed in this state, or in the case of a nonresident, licensed under the laws of the state or country of his residence.

(b) A person may not rent a motor vehicle to another person until he has inspected the license certificate of the latter person and verified the signature on the license by comparison with the signature of that person written in his presence.

(3) A person renting a motor vehicle to another shall keep a record of the registration number of the rented motor vehicle, the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place the license was issued. The record shall be open to inspection by any peace officer or officer or employee of the division.

**History:** C. 1953, 41-2-105, enacted by L. 1987, ch. 137, § 5.

COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 641.  
**C.J.S.** — 61 C.J.S. Motor Vehicles § 588.  
**A.L.R.** — Negligent entrustment of motor

vehicle to unlicensed driver, 55 A.L.R.4th 1100.  
**Key Numbers.** — Automobiles ⇨ 324.

**41-2-106. Employees to operate motor vehicles must be licensed.**

A person may not employ a person to operate a motor vehicle who is not licensed under this chapter.

**History:** C. 1953, 41-2-106, enacted by L. 1987, ch. 137, § 6.

**41-2-107. Exemptions.**

(1) A person is not required to obtain a license to operate a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways.

(2) Every person operating an official United States Government vehicle and who has a valid United States Government operator permit or license for the type of vehicle being operated is exempt from licensing under this chapter.

(3) The commissioner may adopt rules concerning exemptions from operator licensing requirements as necessary to implement this section.

**History:** L. 1933, ch. 45, § 3; 1935, ch. 47, § 2; C. 1943, 57-4-5; L. 1983, ch. 183, § 6; C. 1953, 41-2-3; renumbered by L. 1987, ch. 137, § 7.

**Amendment Notes.** — The 1987 amend-

ment renumbered this section which formerly appeared as § 41-2-3, rewrote Subsections (a) through (c) and redesignated them as Subsections (1) through (3), and deleted former Subsection (d).

**41-2-108. Nonresidents — When exempt from license.**

(1) A nonresident who is at least 16 years of age and younger than 18 years of age who has in his immediate possession a valid license certificate issued to him in his home state or country may operate a motor vehicle in this state only as a class A operator.

(2) A nonresident who is at least 18 years of age and who has in his immediate possession a valid license certificate issued to him in his home state or country may operate a motor vehicle in this state as an operator in the class or classes identified on the home state license certificate, except those persons referred to in Part 5 of this chapter.

**History:** L. 1933, ch. 45, § 4; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-6; L. 1965, ch. 78, § 1; 1975, ch. 119, § 1; 1983, ch. 183, § 7; C. 1953, 41-2-4; renumbered by L. 1987, ch. 137, § 8.

**Amendment Notes.** — The 1987 amend-

ment renumbered this section which formerly appeared as § 41-2-4; in Subsection (1) added "younger than 18 years of age" after "at least 16 years of age and"; in Subsection (2) substituted "in Part 5 of this chapter" for "by Subsection (4) herein" at the end of the subsection;

deleted former Subsections (3) and (4); and made minor stylistic changes.

### **41-2-109. Persons to whom license shall not be issued.**

(1) (a) A license may not be granted to a person younger than 16 years of age. A license may not be granted to a person who has not completed a course in driver training approved by the commissioner.

(b) These prohibitions do not apply to a person who has been issued a license before July 1, 1967, nor to a person 16 years of age or older making application for a license who has been issued a valid operator license in another state or country.

(2) The division may not issue a license certificate to a person whose license has been suspended, during the period of suspension. The division may not again grant a license nor issue a license certificate to a person whose privilege has been revoked, except under Section 41-2-132.

(3) The division may not grant a license to a person who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law.

(4) The division may not grant a license to a person who is required by this chapter to take an examination, unless the person successfully passes the examination.

**History:** L. 1933, ch. 45, § 5; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-7; L. 1955, ch. 68, § 1; 1965, ch. 78, § 2; 1967, ch. 82, § 1; 1975, ch. 67, § 2; 1979, ch. 156, § 1; 1982, ch. 44, § 2; 1983, ch. 183, § 8; 1983, ch. 187, § 2; C. 1953, 41-2-5; renumbered by L. 1987, ch. 137, § 9.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly

appeared as § 41-2-5; rewrote Subsections (1) and (2); deleted former Subsections (3) and (5); renumbered former Subsections (4) and (6) as Subsections (3) and (4) respectively, and made minor changes in phraseology in both subsections.

**Cross-References.** — Driving by minors generally, § 41-8-1.

#### **COLLATERAL REFERENCES**

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 109, 110.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 155.

**Key Numbers.** — Automobiles ☞ 138.

### **41-2-110. Examination of applicants — Class of license — Age and experience requirements to operate school bus or carrier — Class B misdemeanor to operate unauthorized class of vehicle — Waiver of driving examination by employer certification.**

(1) The division shall enact rules establishing a classified operator license system and shall examine each applicant according to the class of license applied for. The division may enact rules for examining applicants as necessary for the safety and welfare of the traveling public. The division shall indicate on the license certificate the class of license issued.

(2) (a) A person younger than 21 years of age may not operate any school bus transporting school children or nursery school children, or any motor vehicle when in use as a contract or common carrier of persons or property. The division may not grant a license for any of these purposes unless

the applicant is at least 21 years of age and has had at least one year of previous driving experience. A license certificate shall indicate if a license has been granted under this section.

(b) It is a class B misdemeanor for any person to operate a class of vehicle unless he is licensed under that class.

(3) At the discretion of the commissioner and under standards established by the division, persons employed as operators may submit an employer's certification in lieu of the driving segment of the examination. The division shall maintain necessary records and set standards to certify companies desiring to qualify under this section.

**History:** L. 1933, ch. 45, § 6; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-8; L. 1967, ch. 81, § 1; 1981, ch. 180, § 1; 1983, ch. 183, § 9; C. 1953, 41-2-6; renumbered by L. 1987, ch. 137, § 10.

**Amendment Notes.** — The 1987 amend-

ment renumbered this section which formerly appeared as § 41-2-6 and rewrote the section to the extent that a detailed analysis is impracticable.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 111.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 156.  
**Key Numbers.** — Automobiles ⇨ 139.

### 41-2-111. Temporary learner permits — Instruction permits.

(1) The division upon receiving an application for a license from a person 16 years of age or older, may in its discretion issue a temporary learner permit after the person has successfully passed all parts of the examination not involving the actual operation of a motor vehicle. The temporary learner permit allows the applicant, while having the permit in his immediate possession, to operate a motor vehicle upon the highways for a period of six months from the date of the application in conformance with the restrictions indicated on the permit as determined by rules of the division.

(2) The division upon receiving an application may in its discretion issue an instruction permit effective for one year to an applicant who is enrolled in a driver education program which includes practice driving if the program is approved by the state office of education [State Board of Education] even though the applicant has not reached the legal age to be eligible for a license. The instruction permit entitles the permittee when he has the permit in his immediate possession to operate a motor vehicle, only when an approved instructor is occupying a seat beside the permittee.

**History:** L. 1933, ch. 45, § 7; 1941, ch. 51, § 2; C. 1943, 57-4-9; L. 1955, ch. 68, § 1; 1965, ch. 78, § 2; 1983, ch. 183, § 10; C. 1953, 41-2-7; renumbered by L. 1987, ch. 137, § 11.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-7; substituted "temporary learner permit" for "temporary instruction permit" and deleted "restricted" before "instruction permit" throughout the section; substi-

tuted "division" for "department" throughout the section; and rewrote the section to the extent that a detailed analysis is impracticable.

**State Board of Education.** — The reference to the state office of education in the first sentence in Subsection (2) is apparently to the State Board of Education. Section 53A-13-201 provides that the State Board of Education shall prescribe rules for driver education in public schools.



## COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 108.

C.J.S. — 60 C.J.S. Motor Vehicles § 146. Key Numbers. — Automobiles ☞ 132.

**41-2-112. Application for license — Nonrefundable fee — Contents — Proof of identity — Previous licenses surrendered — Driving record transferred from other states — Reinstatement — Additional fee.**

- (1) (a) Application for an original license or provisional license is made upon a form furnished by the division by any person who does not hold a valid Utah license and who desires to be licensed to operate a motor vehicle in the state.
- (b) An original application shall be accompanied by a nonrefundable fee under Section 41-2-103. An application for a provisional license under Section 41-2-114 shall be accompanied by a nonrefundable fee under Section 41-2-103.
- (c) An application and fee for either license entitles the applicant to:
  - (i) not more than three attempts to pass the examination within six months of the date of the application;
  - (ii) a learner permit if needed; and
  - (iii) when the examination is passed, to an original license.
- (d) The original license expires on the birth date of the applicant in the fourth year following the year of issuance of the license.
- (2) In addition to the information required by Chapter 46b, Title 63, for requests for agency action, each application shall:
  - (a) state the full legal name, date of birth, sex, and residence address of the applicant;
  - (b) briefly describe the applicant;
  - (c) state whether the applicant has previously been licensed, and if so, when and by what state or country;
  - (d) state whether any license has ever been suspended, revoked, or denied in the last six years, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal;
  - (e) provide other information the division requires; and
  - (f) be signed and verified before a person authorized to administer oaths.
- (3) The division shall require proof of every applicant's name, and date and place of birth, which shall include at least one of the following:
  - (a) current operator license;
  - (b) birth certificate;
  - (c) Selective Service registration; or
  - (d) other proof such as church records, family Bible notations, school records, or other evidence considered acceptable by the division.
- (4) When an applicant receives a license in another class all previous license certificates shall be surrendered before the new license is issued.
- (5) (a) When an application is received from a person previously licensed in another state, the division shall request a copy of the operator's record from the other state.

(b) When received, the operator's record becomes part of the operator's record in this state with the same effect as though entered originally on the operator's record in this state.

(6) Application for reinstatement of a license after the suspension or revocation of a previous license shall be accompanied by an additional fee under Section 41-2-103. In addition to this fee, application for reinstatement of a license after suspension or revocation for an alcohol-related offense shall be accompanied by an additional fee of \$25.

**History:** L. 1933, ch. 45, § 8; 1941, ch. 66, § 1; C. 1943, 57-4-10; L. 1943, ch. 61, § 1; 1951, ch. 64, § 1; 1961, ch. 82, § 1; 1967, ch. 82, § 2; 1969, ch. 97, § 1; 1973, ch. 79, § 1; 1980, ch. 45, § 7; 1982, ch. 44, § 3; 1983, ch. 183, § 11; 1983, ch. 185, § 1; 1987, ch. 129, § 1; C. 1953, 41-2-8; renumbered by L. 1987, ch. 137, § 12; 1987, ch. 161, § 136.

**Amendment Notes.** — The 1987 amendment, by Chapter 129, in Subsection (1) substituted "original license or provisional license" for "original operator's or chauffeur's license," in Subsection (1)(b) substituted "learner permit" for "instruction permit," in Subsection (4) designated the previously undesignated provisions and in the present Subsection (4)(d) inserted "or denied in the last six years," added the second sentence to Subsection (7) and made minor changes in phraseology and punctuation throughout the section.

The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-8; deleted former Subsection (2); renumbered former Subsection (4) as Subsection (2), former Subsection (5) as Subsection (3), former Subsection (3) as Subsection (4), former Subsection (6) as Subsection (5), and former Subsection (7) as Subsection (6); and rewrote the section to the extent that a detailed analysis is impracticable.

The 1987 amendment, by Chapter 161, effective January 1, 1988, added the paragraph designations in Subsections (1), (2) and (4) through (6), added the language preceding "original" in Subsection (4)(a), and made minor changes in phraseology and punctuation.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 99.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 156.  
**Key Numbers.** — Automobiles ☞ 139.

### 41-2-113. Restrictions.

(1) When issuing a license, the division may upon good cause impose restrictions suitable to the licensee's driving ability with respect to the type of motor vehicle or special mechanical control devices required on a motor vehicle which the licensee may operate. The division may impose other restrictions on the licensee as it determines appropriate to assure the safe operation of a motor vehicle by the licensee.

(2) The division may either grant a special restricted license or may set forth restrictions upon the regular license certificate.

(3) The division may suspend or revoke any license issued under this chapter upon receiving satisfactory evidence of any violation of the restrictions imposed on the license. Each licensee is entitled to a hearing for a suspension or revocation under this chapter.

(4) It is a class B misdemeanor for a person to operate a motor vehicle in violation of the restrictions imposed on his license, under this section.

**History:** L. 1933, ch. 45, § 8x, added by L. 1935, ch. 47, § 3; 1941, ch. 51, § 2; C. 1943, 57-4-11; L. 1983, ch. 183, § 12; C. 1953,

41-2-9; renumbered by L. 1987, ch. 137, § 13.

**Amendment Notes.** — The 1987 amend-



ment renumbered this section which formerly appeared as § 41-2-9, substituted "division" for "department" throughout the section, redesignated former Subsections (a) through (d) as Subsections (1) through (4), added "class B" be-

fore "misdemeanor" in Subsection (4), and made changes in phraseology.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 100.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 146.  
**Key Numbers.** — Automobiles ☞ 136.

### 41-2-114. Only provisional license for persons under 21 — Separate point system — Suspension procedures.

(1) The division may issue to a person younger than 21 years of age only a provisional license. The division shall promulgate rules for the establishment and administration of a separate point system for persons issued provisional licenses to facilitate counseling or penalization, or both, earlier than for persons 21 years of age or older. This section is in addition to the provisions of Section 41-2-111.

(2) Under the rules enacted under Subsection (1):

(a) a single reportable violation is followed immediately by a warning letter from the division to the violator;

(b) a second reportable violation within three years of a prior violation results in a hearing, following which the person's driving privilege may be placed on probation; and

(c) a third reportable violation within that three-year period results in cancellation of probation and a 30-day suspension of the driving privilege.

(3) A provision shall be made for the extension of the suspension period for further violations within the three-year period.

(4) Failure to appear for a hearing under this section is cause for suspension of the driving privilege.

**History:** C. 1953, 41-2-9.5, enacted by L. 1983, ch. 185, § 2; C. 1953, 41-2-9.5; renumbered by L. 1987, ch. 137, § 14; 1987, ch. 136, § 3.

**Amendment Notes.** — The 1987 amendment, by Chapter 136, so rewrote this section as to make a detailed analysis impracticable.

The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-9.5, substituted "division" for

"department" throughout the section, added the last sentence of Subsection (1), deleted "driver's, or, if applicable, provisional chauffeur's" following "provisional" in the first sentence in Subsection (1), and made changes in phraseology.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 636.

**C.J.S.** — 60 C.J.S. Motor Vehicles §§ 110, 155, 156.

**Key Numbers.** — Automobiles ☞ 43, 138, 139.

**41-2-115. Application of minors — Liability of person signing application — Cancellation of co-signing adult's liability.**

(1) The application of any person younger than 18 years of age for a learner permit or provisional license shall be signed and verified before a person authorized to administer oaths by the parent or guardian of the applicant. If no person has custody, then a responsible adult, who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor, may sign the application.

(2) Any negligence or willful misconduct of a minor younger than 18 years of age when operating a motor vehicle upon a highway is imputed to the person who has signed the application of the minor for a permit or license. This person is jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct, except as provided under Subsection (3). This liability provision is an exception to any conflicting liability provisions in the code.

(3) If a minor deposits, or there is deposited on his behalf, proof of financial responsibility in respect to the operation of a motor vehicle he owns, or with respect to the operation of any motor vehicle if he does not own one, in form and in amounts as required under Chapter 12a, Title 41, Financial Responsibility of Motor Vehicle Owners and Operators Act, the division may accept the application of the minor when signed by a parent or guardian of the minor. While the proof is maintained, that person is not subject to the liability imposed under Subsection (2).

(4) A person who has signed the application of a minor for a license may file with the division a verified written request that the license of the minor be cancelled. The division shall then cancel the license of the minor, and the person who signed the application of the minor is relieved from the liability imposed under this chapter regarding any subsequent negligence or willful misconduct of the minor in operating a motor vehicle.

(5) The division upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall cancel the license and may not issue a new license until a new application, signed and verified, is made under this chapter. This subsection does not apply to a minor who has become 18 years of age.

**History:** L. 1933, ch. 45, § 9; 1935, ch. 47, § 2; C. 1943, 57-4-12; L. 1967, ch. 82, § 3; C. 1953, 41-2-10; renumbered by L. 1987, ch. 137, § 15.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-10, substituted "division" for "department" throughout the section, substituted "a learner" for "an instruction" and "provisional" for "operator's" in the first sen-

tence in Subsection (1), added the last sentence of Subsection (2), substituted "Chapter 12a, Title 41, Financial Responsibility of Motor Vehicle Owners and Operators Act" for "the motor vehicle financial responsibility laws of this state, then" in the first sentence of Subsection (3), substituted "regarding" for "by reason of having signed such application on account of" in the last sentence of Subsection (4), and made changes in style and phraseology.

## NOTES TO DECISIONS

**Action against third party.**

This section does not require that the contributory negligence of a minor driver be imputed to the designated responsible person in his action against a negligent third party but is merely designed to protect innocent third parties from the negligence of a minor driver by providing financial responsibility. *Phillips v. Tooele City Corp.*, 28 Utah 2d 223, 500 P.2d 669 (1972) (decided prior to enactment of § 41-2-116).

The negligence of the minor is not imputed to the automobile owner and this section does not provide a third party a statutory shield against actions brought by the automobile owner against third parties for damage to the owner's automobile; comparative negligence statutes do not change such rule. *Otto v. Leany*, 635 P.2d 410 (Utah 1981) (decided prior to enactment of § 41-2-116).

## COLLATERAL REFERENCES

**A.L.R.** — Construction and effect of statutes which make parent, custodian, or other person signing minor's application for vehicle opera-

tor's license liable for licensee's negligence or willful misconduct, 45 A.L.R.4th 87.

### **41-2-116. Owner giving permission and minor liable for damages caused by minor operating vehicle.**

The owner of a motor vehicle causing or knowingly permitting a minor younger than 18 years of age to operate the vehicle upon a highway, or a person who gives or furnishes a motor vehicle to the minor, are each jointly and severally liable with the minor for any damages caused by the negligence of the minor in operating the vehicle. This liability provision is an exception to any conflicting provisions in the code regarding liability.

**History:** C. 1953, 41-2-116, enacted by L. 1987, ch. 137, § 16.

## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 654.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 431.  
**Key Numbers.** — Automobiles ⇨ 192(11).

### **41-2-117. Examination of applicant's physical and mental fitness to operate motor vehicle.**

The division shall examine every applicant for a license, including a test of:

- (1) the applicant's eyesight either:
  - (a) by the division; or
  - (b) by allowing the applicant to furnish to the division a statement from a physician licensed under Chapter 12, Title 58, Utah Medical Practice Act, or an optometrist licensed under Chapter 16, Title 58;
- (2) his ability to read and understand highway signs regulating, warning, and directing traffic;
- (3) his ability to read and understand simple English used in highway traffic and directional signs;
- (4) his knowledge of the state traffic laws;
- (5) other physical and mental abilities the division finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways;

(6) whether any facts exist which would bar issuing a license under Section 41-2-109; and

(7) his ability to exercise ordinary and responsible control in the operation of a motor vehicle, as determined by actual demonstration or other indicator.

**History:** L. 1933, ch. 45, § 10; 1935, ch. 47, § 2; C. 1943, 57-4-13; L. 1967, ch. 82, § 4; 1980, ch. 46, § 1; 1983, ch. 183, § 13; C. 1953, 41-2-11; renumbered by L. 1987, ch. 137, § 17; 1988, ch. 219, § 1.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-11, deleted former Subsection (2), divided former Subsection (1) into present Subsections (1), (2) and (4) to (7), added present Subsection (3), and rewrote the mate-

rial in former Subsection (1) to the extent that a detailed analysis is impracticable.

The 1988 amendment, effective April 25, 1988, inserted the subsection designations (a) and (b) in Subsection (1); substituted "by allowing the applicant to" for "in lieu of the test, the applicant may" at the beginning of Subsection (1)(b); rewrote Subsection (3), which read "his ability to communicate in basic English"; and made minor stylistic changes.

#### COLLATERAL REFERENCES

C.J.S. — 60 C.J.S. Motor Vehicles § 156.

**Key Numbers.** — Automobiles ⇨ 139.

### 41-2-118. Records to be filed — Suitable indices kept.

(1) The division shall file every application for a license received by it in alphabetical order and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended or revoked by the division and the reasons for the action.

(2) The division shall also file all accident reports and abstracts of court records of convictions received by it under state law. The department shall maintain convenient records or make suitable notations so that an individual record of each licensee showing his convictions and the traffic accidents in which he has been involved where a conviction has resulted are readily available for consideration by the division upon an application for renewal of a license and at other appropriate times.

**History:** L. 1933, ch. 45, § 12; 1935, ch. 47, § 2; C. 1943, 57-4-15; L. 1967, ch. 82, § 5; 1969, ch. 98, § 1; C. 1953, 41-2-12; renumbered by L. 1987, ch. 137, § 18.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-12, deleted former Subsec-

tion (3), substituted "division" for "department" throughout the section, and made changes in style and phraseology.

**Meaning of "department".** — The term "department," referred to in this section, apparently means the Department of Public Safety. See § 41-2-102(6).

#### COLLATERAL REFERENCES

C.J.S. — 60 C.J.S. Motor Vehicles § 146.

**Key Numbers.** — Automobiles ⇨ 136.

### 41-2-119. Fee for making report.

(1) The division shall search the license files and furnish any report on the driving record of any person licensed in the state when requested by any person. The division may collect a fee determined by the division under Subsection 63-38-3(2) for this service.

(2) A charge may not be made for these reports furnished to municipal, county, state, or federal agencies.

(3) The division may prepare under the seal of the division and deliver upon request, a certified copy of any record of the department, charging a fee determined by the division under Subsection 63-38-3(2) for each document authenticated. Each certified copy is admissible in any proceeding in any court in the same manner as the original.

**History:** L. 1957, ch. 73, § 1; 1967, ch. 82, § 6; 1982, ch. 44, § 5; 1983, ch. 183, § 15; 1984 (2nd S.S.), ch. 15, § 51; C. 1953, 41-2-12.1; renumbered by L. 1987, ch. 137, § 19.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly

appeared as § 41-2-12.1, designated the former section as Subsection (1), added Subsections (2) and (3), and rewrote Subsection (1) to the extent that a detailed analysis is impracticable.

**Meaning of "department".** — See note under same catchline following § 41-2-118.

### 41-2-120. Disposition of revenues under this chapter in Transportation Fund — Expenses of department provided by appropriation.

All fees collected under this chapter shall be transmitted monthly to the state treasurer for deposit in the Transportation Fund. The expenses of the Department of Public Safety in carrying out this chapter shall be provided for by legislative appropriation from this fund. The commissioner shall prepare and submit to the governor, to be included in his budget to the Legislature, a budget of the requirements for carrying out the provisions of this chapter for the fiscal year next following the convening of the Legislature.

**History:** L. 1957, ch. 73, § 2; 1969, ch. 99, § 1; 1977, ch. 117, § 10; C. 1953, 41-2-12.2; renumbered by L. 1987, ch. 137, § 20.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-12.2, substituted "chapter" for "act" throughout the section, substituted "Department of Public Safety" for "State Tax

Commission" in the second sentence, deleted "the provisions of" following "carrying out" in the second sentence, and substituted "commissioner" for "commission" in the third sentence.

**Cross-References.** — Department of Public Safety, Chapter 13 of this title.

Transportation Fund, §§ 63-49-17, 63-49-18.

### 41-2-121. License certificates issued to operators by class of vehicle — Contents — Anatomical gifts indication — Temporary licenses — Minor's licenses and permits.

(1) The division shall issue to every person privileged to operate a motor vehicle, a license certificate indicating the type or class of vehicle the licensee may operate. A person may not operate a class of motor vehicle unless licensed in that class.

(2) (a) Every license certificate shall bear:

- (i) the Social Security number or the distinguishing number assigned to the licensee;
  - (ii) the name, date of birth, and residence address of the licensee;
  - (iii) a brief description of the licensee for the purpose of identification;
  - (iv) a photograph of the licensee; and
  - (v) a photograph or other facsimile of the licensee's signature.
- (b) The license shall be of an impervious material, resistant to wear, damage, and alteration. The size, form, and color of the license shall be as prescribed by the commissioner. The commissioner may also prescribe the issuance of a special type of limited license under Subsection 41-2-127(4), and may authorize the issuance of a renewed or duplicate license without a picture if the applicant is not then living in the state.
- (3) (a) With every license issued or renewed, the division shall, upon request of the licensee, provide a method of identification on the license which indicates the licensee's intent to make an anatomical gift under Chapter 28, Title 26, the Anatomical Gift Act. The statement shall be signed in the presence of at least one witness, who shall sign the statement in the presence of the licensee.
- (b) The division or any of its employees are not liable for any loss, detriment, or injury, directly or indirectly, which results from false or inaccurate information regarding the anatomical gift notification.
- (4) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a license, may issue to an applicant a receipt for the fee, which serves as a temporary license certificate allowing him to operate a motor vehicle while the division is completing its investigation to determine whether he is entitled to be licensed. The receipt shall be in his immediate possession while operating a motor vehicle, and it is invalid when the applicant's license certificate has been issued or when, for good cause, the privilege has been refused. The division shall indicate on the receipt a date after which it is not valid as a license certificate.
- (5) The division shall distinguish learner permits, temporary permits, and licenses issued to any person younger than 21 years of age by use of the plainly printed word "minor" or the use of a special color not used for other license certificates.
- (6) The division shall issue temporary licenses of the same nature, except as to duration, as the licenses which they temporarily replace, as are necessary to implement applicable provisions of Section 41-2-130.

**History:** L. 1933, ch. 45, § 13; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-16; L. 1963, ch. 68, § 1; 1967, ch. 82, § 7; 1981, ch. 129, § 1; 1983, ch. 99, § 2; 1983, ch. 183, § 16; 1987, ch. 92, § 53; C. 1953, 41-2-13; renumbered by L. 1987, ch. 137, § 21.

**Amendment Notes.** — The 1987 amendment, by Chapter 92, substituted "Chapter 28" for "Chapter 26" in Subsection (3)(a) and made minor stylistic and punctuation changes.

The 1987 amendment, by Chapter 137, re-

numbered this section which formerly appeared as § 41-2-13, substituted "division" for "department" throughout the section, and rewrote the section to the extent that a detailed analysis is impracticable.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Cross-References.** — Impaired drivers, licenses, §§ 41-2-39, 41-2-40.



## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 96 et seq.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 146.  
**Key Numbers.** — Automobiles ☞ 136.

**41-2-122. Change of address — Duty of licensee to notify division within ten days — Method of giving notice by division.**

(1) When a person, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to him, the person shall within ten days notify the division in writing of his new address and of the number of any license held by him.

(2) (a) When the division is authorized or required to give any notice under this chapter or other law regulating the operation of vehicles, unless a different method of giving notice is otherwise prescribed, the notice shall be given either by personal delivery to the person to be notified or by deposit in the United States mail of the notice in an envelope with postage prepaid, addressed to the person at his address as shown by the records of the division. The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.

(b) Proof of the giving of notice in either manner may be made by the certificate of any officer or employee of the division or affidavit of any person older than 18 years of age, naming the person to whom the notice was given and specifying the time, place, and manner of the giving of it.

**History:** C. 1953, 41-2-13.1, enacted by L. 1967, ch. 82, § 10; 1983, ch. 183, § 17; renumbered by L. 1987, ch. 137, § 22.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly

appeared as § 41-2-13.1, designated the former section as Subsection (1), substituted "division" for "department" and made changes in phraseology in Subsection (1), and added Subsection (2).

**41-2-123. Duplicate license certificate — Fee.**

(1) If a license certificate issued under the provisions of this chapter is lost, stolen, or destroyed, the person to whom it was issued may obtain a duplicate upon furnishing proof satisfactory to the division that the license certificate has been lost, stolen, or destroyed and upon payment of a fee under Section 41-2-103.

(2) When the division is advised that a license certificate has been lost, stolen, or destroyed, it is then void.

**History:** L. 1933, ch. 45, § 14; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 54-7-17; L. 1951, ch. 64, § 1; 1967, ch. 82, § 8; 1982, ch. 44, § 6; 1983, ch. 183, § 18; C. 1953, 41-2-14; renumbered by L. 1987, ch. 137, § 23.

**Amendment Notes.** — The 1987 amend-

ment renumbered this section which formerly appeared as § 41-2-14, designated the first sentence as Subsection (1) and the second sentence as Subsection (2), substituted "division" for "department" throughout the section, and made minor changes in phraseology and style.

## 41-2-124. License to be carried when driving — Production in court.

(1) The licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of a justice of peace, a peace officer, or a field deputy or inspector of the division.

(2) It is a defense to a charge under this section that the person charged produces in court a license issued to him and valid at the time of his citation or arrest.

**History:** L. 1933, ch. 45, § 15; C. 1943, 57-4-18; L. 1967, ch. 82, § 9; 1983, ch. 183, § 19; C. 1953, 41-2-15; renumbered by L. 1987, ch. 137, § 24.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-15, designated the first sentence as Subsection (1) and the second as

Subsection (2), substituted "operating" for "driving" and "division" for "department" in Subsection (1), added "citation or" before "arrest" in Subsection (2), and made minor changes in phraseology and style.

**Cross-References.** — Registration card to be carried, § 41-1-40.

### NOTES TO DECISIONS

#### Constitutionality.

Statutes requiring a driver's license, proper vehicle registration, and safety inspection did not unconstitutionally deprive defendant of

any claimed "right of locomotion," due process, or equal protection of the laws. *State v. Stevens*, 718 P.2d 398 (Utah 1986).

### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 101.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 159.

**A.L.R.** — Validity and construction of statute making it a criminal offense for operator of

a motor vehicle not to carry or display his operator's license or the vehicle registration certificate, 6 A.L.R.3d 506.

**Key Numbers.** — Automobiles ⇌ 142.

## 41-2-125. Expiration dates of licenses — Renewal — Extension without examination — Licensees in armed forces — Fees required.

(1) Every renewed license expires on the licensee's birth date in the fourth year following the year of issuance of the license. A new license may not be issued to a person after the expiration of his license until he has again passed the examinations under Section 41-2-117 and has paid the required fee.

(2) (a) The holder of a valid license may secure a renewal by making application at any time within six months before the license expires. Except under Subsection (3), upon application for renewal of a license the division shall reexamine each applicant as if for an original license. The division may in its discretion waive that portion of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) The commissioner may allow the holder of a valid license to renew the license more than six months prior to its expiration date if the applicant furnishes proof that he will be absent from the state during the six-month period prior to the expiration of the license.



(3) At the discretion of the commissioner and under standards established by the division, licenses may be extended for four years without examination for licensees whose driving records for the four years immediately preceding the determination of eligibility for extension show driving violation penalty points not exceeding 50, no suspensions or revocations, and no outstanding warrants for traffic violations. However, a person 65 years of age or older shall take and pass the eye examination specified in Section 41-2-117. An extension may not be granted to any person who is identified by the division as having a medical impairment which may represent a hazard to public safety.

(4) Utah licenses held by persons ordered to active duty in any of the armed forces of the United States shall be honored as valid until 90 days after the person has been discharged or has left the service, unless the license is suspended or revoked by the division, or the licensee updates the information or photograph on the license certificate. If changes are made, the licensee shall renew his license under Subsection (2).

(5) The application for renewal or extension of a license shall be accompanied by a fee under Section 41-2-103.

**History:** C. 1953, 41-2-16, enacted by L. 1967, ch. 82, § 11; 1969, ch. 99, § 2; 1975, ch. 118, § 1; 1980, ch. 46, § 2; 1982, ch. 44, § 7; 1983, ch. 183, § 20; 1983, ch. 184, § 1; renumbered by L. 1987, ch. 137, § 25.

**Repeals and Enactments.** — Laws 1967, ch. 82, § 11, repealed former § 41-2-16 (L. 1955, ch. 70, § 1; 1957, ch. 74, § 1; 1961, ch. 83, § 1), relating to operators' licenses without specific expiration dates, extension and renewal of licenses and licenses of persons in the armed forces, and enacted the present section.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-16; substituted "division"

for "department" throughout the section; deleted the last sentence of Subsection (1), dealing with licenses without specific expiration dates; in Subsection (2)(a) deleted the language following "expires" and substituted the present second and third sentences; in Subsection (3) deleted the previous second paragraph, dealing with extension fees; deleted former Subsections (4) and (6) and renumbered former Subsection (5) as Subsection (4), and added present Subsection (5); in Subsection (4) added the language following "suspended or revoked by the" in the first sentence, and added the second sentence; and made changes in phraseology and style.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 102.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 146.  
**Key Numbers.** — Automobiles ☞ 136.

### **41-2-126. Court to report convictions and may recommend suspension of license — Severity of speeding violation defined.**

(1) When a person is convicted of any offense for which this title requires the revocation or suspension of the person's license, the court in which the conviction takes place shall require the surrender to it of all license certificates held by the person convicted. The court shall forward them together with the record of conviction to the division within ten days.

(2) A court having jurisdiction over offenses committed under this title or any other law of this state, or under any city ordinance regulating the operation of motor vehicles on highways, shall forward to the division within ten days, an abstract of the court record of the conviction of any person in the

court for a reportable traffic violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(3) The abstract shall be made upon a form approved and furnished by the division and shall include the name and address of the party charged, the number of his license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail was forfeited, and the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum." The severity of a speeding violation shall be graded as "minimum" for exceeding the posted speed limit by up to 9 miles per hour; as "intermediate" for exceeding the posted speed limit by from 10 to 19 miles per hour; and as "maximum" for exceeding the posted speed limit by 20 or more miles per hour.

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate his operator's license and return his license certificate immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(5) In this section "conviction" means conviction by the court of first impression. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which has not been vacated, is equivalent to a conviction.

**History:** L. 1933, ch. 45, § 17; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-20; L. 1961, ch. 84, § 1; 1983, ch. 183, § 21; C. 1953, 41-2-17; renumbered by L. 1987, ch. 137, § 26; 1987, ch. 136, § 4.

**Amendment Notes.** — The 1987 amendment by Laws 1987, Chapter 136 so rewrote this section as to make a detailed analysis impracticable.

The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-17; redesignated Subsections (a) through (e) as Subsections (1) through (5);

substituted "division" for "department" throughout the section; in Subsection (1) added "within ten days" at the end of the subsection; in the second sentence in Subsection (3) deleted "in respect to a conviction or bond forfeiture for speeding" at the beginning of the sentence; and made changes in phraseology and style.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Cross-References.** — Probation, conditions, § 77-18-1.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 112 et seq.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 160.  
**Key Numbers.** — Automobiles ☞ 144.

### **41-2-127. Offenses requiring mandatory revocation or suspension of license — Offense requiring an extension of period — Hearing — Limited driving privileges.**

(1) The division shall immediately revoke or, when this title specifically provides for suspension, suspend the license of a person upon receiving a record of his conviction for any of the following offenses:

- (a) manslaughter or negligent homicide resulting from the operation of a motor vehicle, or automobile homicide under Section 76-5-207;
- (b) operating or being in actual physical control of a vehicle while under the influence of alcohol or any drug or combination of them to a degree which renders the person incapable of safely driving a vehicle as

prohibited in Section 41-6-44 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

(c) operating or being in actual physical control of a vehicle while having a blood or breath alcohol content prohibited in Section 41-6-44 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6-43(1);

(d) perjury or the making of a false affidavit to the division under this title or any other law of this state requiring the registration of motor vehicles or regulating their operation on highways;

(e) any offense punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle is used;

(f) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(g) two charges of reckless driving committed within a period of 12 months; but if upon a first conviction of reckless driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(h) failure to bring a vehicle to a stop at the command of a peace officer under Section 41-6-13.5; and

(i) an assault offense under Part 1, Chapter 5, Title 76, when the assault is committed using a motor vehicle, and when an operator's license is required under this chapter to operate the vehicle.

(2) The division shall extend the period of the first suspension for an additional like period, or if the privilege is revoked, it shall refuse to act upon the application of the person whose privilege is revoked for a new license for an additional year after the person would otherwise be entitled to apply for a new license, upon receiving:

(a) a record of the conviction of any person upon a charge of operating a motor vehicle while the person's license is suspended or revoked;

(b) a report of an accident in which the person was involved as an operator; or

(c) a record of an arrest or conviction of the person for any violation of the motor vehicle law in which the person was involved as an operator.

(3) Except for information received under Subsections (2)(a) and (c), when the division receives information that a person is driving while his license is suspended or revoked, the person is entitled to a hearing regarding the extension of the time of suspension under Section 41-2-128.

(4) (a) The division may in its discretion extend to a person the limited privilege of operating a vehicle to and from his place of employment or within other specified limits on recommendation of the trial judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2), except:

(i) automobile homicide under Subsection (1)(a);

(ii) those offenses referred to in Subsections (1)(b) and (c); and

(iii) those offenses referred to in Subsections (2)(a), (b), and (c)

where the original suspension or revocation was imposed because of a violation of Section 41-6-44, a local ordinance which complies with the requirements of Section 41-6-43, Section 41-6-44.10, or Section 76-5-207, or a criminal prohibition that the person was charged with

violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances.

(b) This discretionary privilege is limited to cases where undue hardship would result from a failure to grant the privilege, and may be granted only once to any individual during any single period of suspension or revocation or extension of that suspension or revocation.

**History:** L. 1933, ch. 45, § 18; 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-21; L. 1949, ch. 66, § 1; 1955, ch. 69, § 1; 1973, ch. 80, § 1; 1977, ch. 268, § 2; 1978, ch. 33, § 1; 1979, ch. 152, § 1; 1983, ch. 99, § 3; C. 1953, 41-2-18; **renumbered by** L. 1987, ch. 137, § 27; L. 1988, ch. 16, § 1; 1988, ch. 162, § 1.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-18; redesignated former Subsections (a) through (d) as Subsections (1) through (4); deleted former Subsection (e), dealing with drug- or alcohol-related offenses; substituted "division" for "department" throughout the section; added "except for information received under Subsections (2)(a) and (c)" at the beginning of Subsection (3); added "the division may in its discretion extend to a person the limited privilege of operating a vehicle to and from his place of employment or within other specified limits" at the beginning of Subsection (4)(a); deleted "the department may at its discretion extend to such person the limited privilege of driving a vehicle to and from his place of employment or within other proper limits; provided however that this" at

the end of Subsection (4)(a)(iii); and made changes in phraseology and style.

The 1988 amendment by Chapter 16, effective April 25, 1988, deleted the designation "(i)" before "any of the crimes" in the introductory paragraph of Subsection (4)(a); inserted the designation "(i)" before "automobile homicide" in Subsection (4)(a); added the word "and" at the end of Subsection (4)(a)(ii); substituted "where" for "in cases in which" near the beginning of subsection (4)(a)(iii); inserted the word "or" before "Section 76-5-207" in Subsection (4)(a)(iii); and made minor stylistic changes.

The 1988 amendment by Chapter 162, effective April 25, 1988, substituted "offenses" or "offense" for "crimes" or "crime" throughout the section; added Subsection (1)(i); substituted "This discretionary privilege" for "This discretion" at the beginning of Subsection (4)(b); and made minor stylistic changes.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

**Cross-References.** — Probation, conditions, § 77-18-1.

## NOTES TO DECISIONS

### ANALYSIS

Limited license.

"Record of the conviction."

#### Limited license.

Refusal to follow district court's recommendation that limited license be issued to one who had been twice convicted of driving under the influence of intoxicating liquor while driving under a prior limited license was not an abuse of discretion. *Pyne v. Dorius*, 25 Utah 2d 262, 480 P.2d 143 (1971).

#### "Record of the conviction."

"Record of the conviction," under this section, need only be such a record or report from

the trial court as to show the name of the court, the charge, the date of trial and the verdict. *Emmertson v. State Tax Comm'n*, 93 Utah 219, 72 P.2d 467, 113 A.L.R. 1174 (1937).

Revocation of license is mandatory upon receipt of record of conviction, and does not depend upon any order or judgment, and consequently fact that judgment entered on verdict is defective or void or that judgment is suspended cannot affect revocation. *Emmertson v. State Tax Comm'n*, 93 Utah 219, 72 P.2d 467, 113 A.L.R. 1174 (1937).

## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 112 et seq.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 160.

**A.L.R.** — Regulations establishing a "point system" as regards suspension or revocation of license of operator of motor vehicle, 5 A.L.R.3d 690.

Habitual violations: validity and construction of legislation authorizing revocation or suspension of operator's license, for "habitual,"

"persistent," or "frequent" violations of traffic regulations, 9 A.L.R.3d 756.

Necessity of notice and hearing before revocation or suspension of motor vehicle driver's license, 60 A.L.R.3d 361.

Sufficiency of notice and hearing before revocation or suspension of motor vehicle driver's license, 60 A.L.R.3d 427.

**Key Numbers.** — Automobiles ⇨ 144.

**41-2-128. Offenses which may result in suspension or revocation of license — Point system for traffic violations — Additional grounds for suspension — Reporting of traffic violation procedures.**

(1) By following the emergency procedures set forth in Chapter 46b, Title 63, the division may immediately suspend the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe:

(a) the person has committed any offenses for which mandatory revocation of license is required upon conviction under Section 41-2-127;

(b) the person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person or serious property damage;

(c) the person is incompetent to operate a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to operate a motor vehicle upon the highways;

(d) the person has committed a serious violation of the motor vehicle laws of this state;

(e) the person has permitted an unlawful use of the license as defined in Section 41-2-133; or

(f) the person has been convicted of serious offenses against traffic laws governing the movement of vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this provision does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This provision applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) This provision may not be exercised unless notice of the pending suspension of the driving privilege has been mailed at least ten days previously to the person at the address provided to the division. After clearance by the division, a report authorized by Section 41-2-119 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.



- (3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding uncompleted restitution requirement, or an outstanding warrant levied by order of a court. The suspension remains in effect until the division is notified by the court that the order has been satisfied. After clearance by the division, a report authorized by Section 41-2-119 may not contain any evidence of the suspension.
- (b) This section applies to all fines, warrants, or restitution requirements as described in Subsection (3) (a) which are outstanding on or after the effective date of this section.
- (4) In applying the standard provided in this subsection, the division shall establish and administer a point system.
- (a) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness. The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.
- (b) Every person convicted of a traffic violation shall have assessed against his driving record the number of points which the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as "minimum," and shall be increased by 10% if on the abstract the court has graded the severity of violation as "maximum."
- (c) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense. Consideration shall be made for assessment of no points on minimum speeding violations except for school zones.
- (d) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.
- (ii) The time limit may not exceed three years.
- (iii) The division may also delete points to reward violation-free driving for periods of time set by the division.
- (e) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to suspend under this section.
- (ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.
- (5) (a) Upon suspending the license of a person under this section, the division shall immediately notify the licensee in writing and afford him an opportunity for a hearing in the county where the licensee resides. The hearing shall be documented and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division. After the hearing the

division shall either rescind its order of suspension, extend the suspension of the license, or revoke the license.

(b) The suspension of the license remains in effect pending qualifications determined by the division, regarding a person:

- (i) whose license has been suspended following reexamination;
- (ii) who is incompetent to operate a vehicle;
- (iii) who is afflicted with mental or physical infirmities which might make him dangerous on the highways; or
- (iv) who may not have the necessary knowledge or skill to operate a motor vehicle safely.

(6) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident operator of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(7) (a) The division may suspend or revoke the license of any nonresident to operate a motor vehicle in this state for any cause for which the license of a resident operator may be suspended or revoked.

(b) Any nonresident who operates a motor vehicle upon a highway when his license has been suspended or revoked by the division is guilty of a class B misdemeanor.

(8) (a) The division may not suspend the license of any person for a period of more than one year, except under Subsection (2), Subsections 41-2-127 (2) and 41-2-127(3), and Section 41-12a-412.

(b) The division may suspend the license of a person under Subsection (2) until he shows satisfactory evidence of compliance with the terms of the traffic citation.

(c) Upon suspending or revoking a license the division shall require that all license certificates held by the person be surrendered to the division.

(d) At the end of the period of suspension, the certificate surrendered shall be returned to the licensee.

(9) (a) By following the emergency procedures set forth in Chapter 46b, Title 63, the division may immediately suspend the license of any person without hearing and without receiving a record of conviction of the person of crime when the division has reason to believe that the person's license was issued by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(10) (a) The division, having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or issue a license subject to restriction by Section 41-2-113.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of his license.

(11) A report authorized by Section 41-2-119 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of less than 71 miles per hour and did not result in an accident, unless authorized in writing by the individual whose report is being requested.

(12) (a) By following the emergency procedures set forth in Chapter 46b, Title 63, the division may immediately suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which a security is required under Chapter 12a, Title 41, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has operated the vehicle or permitted it to be operated within this state without the security being in effect.

(b) Sections 41-12a-411 and 41-12a-412 regarding the surrender of license plates and registration of motor vehicles and the requirement of proof of financial responsibility apply to persons whose driving privileges are suspended under this subsection.

(c) If the division exercises the right of immediate suspension granted under this subsection, the notice and hearing provisions of Subsection (5) apply.

(d) A person whose license suspension has been sustained or whose license has been revoked by the division under this subsection may file a request for agency action requesting a hearing.

**History:** C. 1953, 41-2-19, enacted by L. 1978 (2nd S.S.), ch. 9, § 2; L. 1983, ch. 99, § 3; 1983, ch. 183, § 22; 1983, ch. 187, § 3; 1983, ch. 192, § 1; 1984, ch. 39, § 1; 1985, ch. 153, § 2; 1985, ch. 242, § 47; 1986, ch. 204, § 280; renumbered by L. 1987, ch. 136, § 5; 1987, ch. 137, § 28; 1987, ch. 161, § 137; 1988, ch. 189, § 1.

**Repeals and Enactments.** — Laws 1978 (2nd S.S.), ch. 9, § 1 repealed former § 41-2-19 (L. 1933, ch. 45, § 19; 1941, ch. 51, § 2; C. 1943, 57-4-22; L. 1961, ch. 85, § 1; 1978, ch. 34, § 2), relating to suspension and revocation of licenses, and enacted the present section.

**Amendment Notes.** — The 1987 amendment, by Chapter 136, so rewrote this section as to make a detailed analysis impracticable.

The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-19; substituted "division" for "department" throughout the section; and rewrote and reorganized the section, as last

amended by Laws 1986, ch. 204, § 280, to the extent that a detailed analysis is impracticable.

The 1987 amendment, by Chapter 161, effective January 1, 1988, rewrote the section to the extent that a detailed analysis is impracticable.

This section was set out as reconciled by the Office of Legislative Research and General Counsel.

The 1988 amendment, effective April 25, 1988, deleted former Subsection (1)(f), which read "the person has committed a violation under Part VII, Chapter 12a, Title 41, regarding vehicle security," redesignated former subsection (1)(g) as present subsection (1)(f), and made a minor stylistic change.

**Compiler's Notes.** — Laws 1984, ch. 39, § 3 makes the act effective upon approval of the governor. Approved February 16, 1984.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.



## NOTES TO DECISIONS

## ANALYSIS

Constitutionality.  
Habitual negligence.  
Prior violations.

**Constitutionality.**

The point system authorized by this section does not violate constitutional equal protection rights. *Barney v. Cox*, 588 P.2d 696 (Utah 1978).

**Habitual negligence.**

Proof of three moving violations within eighteen months constitutes prima facie evidence that the driver is habitually negligent, but the motorist may introduce evidence to the con-

trary. *McAnerney v. State Dep't of Pub. Safety*, 9 Utah 2d 191, 341 P.2d 212 (1959) (decided under prior law).

**Prior violations.**

Violations used in a prior determination and suspension should not be used as the basis for a second order of suspension. *McAnerney v. State Dep't of Pub. Safety*, 9 Utah 2d 191, 341 P.2d 212 (1959).

## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 117, 118.

**C.J.S.** — 60 C.J.S. Motor Vehicles § 160.

**A.L.R.** — Regulations establishing a "point system" as regards suspension or revocation of license of operator of motor vehicle, 5 A.L.R.3d 690.

Necessity of notice and hearing before revo-

cation or suspension of motor vehicle driver's license, 60 A.L.R.3d 361.

Automobiles: validity and construction of legislation authorizing revocation or suspension of operator's license for "habitual," "persistent," or "frequent" violations of traffic regulations, 48 A.L.R.4th 367.

**Key Numbers.** — Automobiles ⇨ 144.

## 41-2-129. Purpose of revocation or suspension for driving under the influence.

The Legislature finds that a primary purpose of the provisions in this title that relate to suspension or revocation of a person's license or privilege to operate a motor vehicle for driving with a blood alcohol content above a certain level or while under the influence of alcohol or any drug, or a combination of alcohol and any drug, or for refusing to take a chemical test as provided in Section 41-6-44.10, is protecting persons on highways by quickly removing from the highways those persons who have shown they are safety hazards by driving with a blood or breath alcohol content above a certain level or while under the influence of alcohol or any drug or combination of alcohol and any drug or by refusing to take a chemical test that complies with the requirements of Section 41-6-44.10.

**History:** C. 1953, 41-2-19.5, enacted by L. 1983, ch. 99, § 5; renumbered by L. 1987, ch. 137, § 29.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly

appeared as § 41-2-19.5, substituted "title" for "code," added "or breath" before the second instance of "alcohol content above a certain level," and made minor changes in phraseology and style.

## NOTES TO DECISIONS

Cited in *Lopez v. Schwendiman*, 720 P.2d 778 (Utah 1986).

## COLLATERAL REFERENCES

**Law Reviews.** — Recent Developments in Utah Law — Judicial Decisions — Criminal Law, 1987 Utah L. Rev. 137.

**41-2-130. Chemical test for driving under the influence — Temporary license — Hearing and decision.**

(1) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6-44 the peace officer may, in connection with his arrest of the person, request the person to submit to chemical tests to be administered in compliance with the standards under Section 41-6-44.10.

(b) In this section, Section 41-6-44 includes a local ordinance similar to this section adopted in compliance with Subsection 41-6-43(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that results indicating a violation of Section 41-6-44 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a vehicle may, result in suspension or revocation of the person's license or privilege to operate a motor vehicle.

(3) If the person submits to that chemical test and the results indicate a blood or breath alcohol content in violation of Section 41-6-44, or if the officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6-44, the officer directing administration of the test or making the determination shall serve on the person, on behalf of the division, immediate notice of the division's intention to suspend the person's privilege or license to operate a vehicle. If the officer serves that immediate notice on behalf of the division he shall: (a) take the Utah license certificate or permit, if any, of the operator; (b) issue a temporary license effective for only 30 days; and (c) supply to the operator, on a form to be approved by the division, basic information regarding how to obtain a prompt hearing before the division. A citation issued by the officer may, if approved as to form by the division, serve also as the temporary license.

(4) The peace officer serving the notice shall send to the division within five days after the date of arrest and service of the notice the person's license along with a copy of the citation issued regarding the offense, and a signed report indicating the chemical test results, if any, and any other basis for the officer's determination that the person has violated Section 41-6-44. Each report shall be on a form approved by the division.

(5) (a) Upon written request, the division shall grant to the person an opportunity to be heard within 30 days after the date of arrest. The request shall be made within ten days of the date of the arrest.

(b) A hearing, if held, shall be before the division in the county in which the arrest occurred, unless the division and the person agree that the hearing may be held in some other county. The hearing shall be documented and shall cover the issues of whether a peace officer had

reasonable grounds to believe the person to have been operating a motor vehicle in violation of Section 41-6-44, whether the person refused to submit to the test, and the test results, if any. In connection with a hearing the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. One or more members of the division may conduct the hearing.

(c) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division. After the hearing, the division shall order whether the person's license to operate a motor vehicle be suspended or not.

(d) A first suspension, whether ordered or not challenged under this subsection, is for a period of 90 days, beginning on the 31st day after the date of the arrest. A second or subsequent suspension under this subsection is for a period of 120 days, beginning on the 31st day after the date of arrest.

(e) The division shall assess against a person, in addition to any fee imposed under Subsection 41-2-112(6), a fee under Section 41-2-103, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper. A person whose license has been suspended by the division under this subsection may file a petition within 30 days after the suspension for a hearing in the matter which, if held, is governed by Section 41-2-131.

**History:** C. 1953, 41-2-19.6, enacted by L. 1983, ch. 99, § 6; 1987, ch. 129, § 2; renumbered by L. 1987, ch. 137, § 30.

**Amendment Notes.** — The 1987 amendment, by Chapter 129, in Subsection (4) in the middle of the first sentence substituted "a signed report" for "a sworn report," in Subsection (4) in the second sentence deleted the last clause which read "and shall be endorsed by the police officer or his equivalent or by a person authorized by him, other than the officer serving the notice" and made minor changes in phraseology and punctuation throughout the section.

The 1987 amendment, by Chapter 137, renumbered this section which formerly ap-

peared as § 41-2-19.6; substituted "division" for "department" throughout the section; in Subsection (1) designated the existing language as Subsection (1)(a) and added Subsection (1)(b); in the first sentence in Subsection (3) deleted "to believe that the determination is correct" following "reasonable grounds"; at the end of the first sentence in Subsection (4) deleted "and the officer's belief regarding the person's violation of section 41-6-44"; in Subsection (5) deleted various references to issuance of a thirty-day license and made changes in phraseology and style.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

## NOTES TO DECISIONS

### ANALYSIS

Standard for suspension.  
Cited.

### Standard for suspension.

The "residuum rule" (although administrative agencies may rely upon hearsay evidence,

a residuum of competent legal evidence must support the agencies' findings) applies to per se license suspension hearings. *Kehl v.*

Schwendiman, 735 P.2d 413 (Utah 1987).  
Cited in Gabbard v. Beach, 736 P.2d 1047

(Utah 1987); Harry v. Schwendiman, 740 P.2d 1344 (Utah Ct. App. 1987).

### 41-2-131. Judicial review of license cancellation, revocation or suspension.

(1) Any person denied a license or whose license has been cancelled, suspended, or revoked by the department may seek judicial review of the department's order.

(2) Venue for judicial review of informal adjudicative proceedings is in the district court in the county where the person resides. Persons not residing in the state shall file in Salt Lake County or the county where the offense occurred which resulted in the cancellation, suspension, or revocation.

**History:** L. 1933, ch. 45, § 20; 1935, ch. 47, § 2; C. 1943, 57-4-23; L. 1983, ch. 99, § 7; C. 1953, 41-2-20; renumbered by L. 1987, ch. 137, § 31; 1987, ch. 161, § 138; 1987 (1st S.S.), ch. 8, § 1.

**Amendment Notes.** — The 1987 amendment, by Chapter 137, renumbered this section which formerly appeared as § 41-2-20, substituted "division" for "department" throughout the section, divided the section into Subsections (1) and (2), and rewrote the section to the extent that a detailed analysis is impracticable.

The 1987 amendment, by Chapter 161, effective January 1, 1988, rewrote the existing language and designated it as Subsection (1), and added Subsection (2).

**Meaning of "department".** — See note under same catchline following § 41-2-118.

**Legislative Intent.** — Laws 1987 (1st S.S.), ch. 8, § 6 states the legislative intent that § 41-2-131 be superseded by the provisions of § 41-2-20 (now this section) in Laws 1987, Chapter 161, when that act becomes effective January 1, 1988.

### NOTES TO DECISIONS

#### **Trial de novo.**

It is the duty of the court to hear the case de novo, to take testimony, examine the facts, and make an independent determination concern-

ing habitual negligence and not merely to review the action taken below. *McAnerney v. State Dep't of Pub. Safety*, 9 Utah 2d 191, 341 P.2d 212 (1959).

### 41-2-132. New license after revocation.

(1) A person whose license has been revoked under this chapter may not apply for or receive any new license until the expiration of one year from the date the former license was revoked, or longer as provided in Sections 41-2-127 and 41-2-128. A revoked license may not be renewed. Application for a new license shall be filed under Section 41-2-112. The new license is subject to all provisions of an original license. The division may not grant the license until an investigation of the character, driving abilities, and habits of the operator has been made to indicate whether it is safe to grant him a license.

(2) Any resident or nonresident whose license to operate a motor vehicle in this state has been suspended or revoked under this chapter may not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or other source during suspension or after revocation until a new license is obtained under this chapter.

**History:** L. 1933, ch. 45, § 21, 1935, ch. 47, § 2; 1941, ch. 51, § 2; C. 1943, 57-4-24; L. 1967, ch. 82, § 12; 1983, ch. 183, § 23; C. 1953, 41-2-21; renumbered by L. 1987, ch. 137, § 32.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-21, and rewrote the section to the extent that a detailed analysis is impracticable.

### 41-2-133. Violation of license provisions.

It is a class B misdemeanor for a person to:

- (1) display or cause or permit to be displayed or to have in possession any license knowing it is fictitious or has been cancelled, revoked, suspended, or altered;
- (2) lend or knowingly permit the use of a license issued to him, by a person not entitled to it;
- (3) display or to represent as his own a license not issued to him;
- (4) fail or refuse to surrender to the division upon demand any license which has been suspended, canceled, or revoked;
- (5) use a false name or give a false address in any application for a license or any renewal or duplicate of the license, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the application; or
- (6) permit any other prohibited use of a license issued to him.

**History:** L. 1933, ch. 45, § 24; C. 1943, 57-4-27; L. 1983, ch. 183, § 24; C. 1953, 41-2-23; renumbered by L. 1987, ch. 137, § 33.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-23; in the introductory sentence substituted "is a class B misdemeanor" for "it shall be unlawful" and deleted "commit any of the following acts" before the colon; de-

leted "To" at the beginning of each subsection; in Subsection (2) substituted "to it" for "thereto, any operator's license issued to the person so lending or permitting the use thereof"; in Subsection (5) deleted "or fictitious" following each instance of "false"; added Subsection (6); and made changes in style and phraseology.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

#### COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 146 to 149.

**C.J.S.** — 61 C.J.S. Motor Vehicles § 588.

**Key Numbers.** — Automobiles ⇨ 324.

### 41-2-134. Grounds for confiscation of licenses, plates, and other articles issued by state — Additional fee for reinstatement.

- (1) (a) The division, any peace officer acting in his official capacity, or a person authorized under Subsection (2) may take possession of any certificate of title, registration card, decal, permit, license, or registration plate or any other article issued by the state:
  - (i) upon expiration, suspension, revocation, alteration, or cancellation of it;
  - (ii) that is fictitious;
  - (iii) that has been unlawfully or erroneously issued; or
  - (iv) that is unlawfully or erroneously displayed.
- (b) A receipt shall be issued which describes each confiscated item.

(2) The division may enter into contractual agreements with constables or other law enforcement agencies to facilitate confiscation of items listed in Subsection (1) when a person fails or refuses to surrender any of those documents to the division upon demand.

(3) The division shall assess against a person making an application referred to in Subsection 41-2-112(6), in addition to any fee imposed under Subsection 41-2-112(6), a fee under Section 41-2-103, which shall be paid before the person's driving privilege is reinstated, to cover the costs required to serve orders related to the purposes of Subsection (2).

**History:** C. 1953, 41-2-23.5, enacted by L. 1983, ch. 191, § 1; renumbered by L. 1987, ch. 137, § 34; 1988, ch. 98, § 1.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-23.5; added Subsection (1) and redesignated former Subsections (1) and (2) as Subsections (2) and (3) respectively; sub-

stituted "division" for "department" throughout the section; and made changes in style and phraseology.

The 1988 amendment, effective April 25, 1988, substituted "Subsection (2)" for "Subsections (1) and (2)" at the end of Subsection (3) and made minor stylistic changes in Subsection (1).

#### 41-2-135. Making false affidavit is perjury.

A person who makes any false affidavit or knowingly swears or affirms falsely, to any matter or thing required under this chapter to be sworn to or affirmed, is guilty of perjury.

**History:** L. 1933, ch. 45, § 25; C. 1943, 57-4-28; C. 1953, 41-2-24; renumbered by L. 1987, ch. 137, § 35.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-24, deleted "and upon con-

viction shall be punishable by fine or imprisonment as other persons committing perjury are punishable" at the end of the section, and made changes in phraseology.

**Cross-References.** — Falsification in official matters, § 76-8-501 et seq.

#### 41-2-136. Operating vehicle prohibited while license suspended or revoked — Penalties.

(1) A person whose license has been suspended or revoked under this chapter, and who operates any motor vehicle upon the highways of this state while that license is suspended or revoked, shall be punished as provided in this section.

(2) A person convicted of a violation of Subsection (1), other than a violation specified in Subsection (3), is guilty of a class B misdemeanor.

(3) (a) A person is guilty of a class A misdemeanor whose conviction under Subsection (1) is based on his operating a vehicle while his license is suspended or revoked for:

- (i) a refusal to submit to a chemical test under Section 41-6-44.10;
- (ii) a violation of Section 41-6-44;
- (iii) a local ordinance which complies with the requirements of Section 41-6-43;
- (iv) a violation of Section 76-5-207;

(v) or a criminal prohibition that the person plead guilty as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances under this subsection; or



(vi) whose revocation or suspension has been extended under Subsection 41-2-127(2).

(b) A fine imposed under this subsection shall be in an amount not less than the maximum fine for a class B misdemeanor under Section 76-3-301.

**History:** L. 1933, ch. 45, § 29; C. 1943, 57-4-32; L. 1983, ch. 99, § 8; 1983, ch. 183, § 27; C. 1953, 41-2-28; renumbered by L. 1987, ch. 137, § 36.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly appeared as § 41-2-28; designated the existing provisions as Subsection (1) and added Subsec-

tions (2) and (3); in Subsection (1) deleted "is guilty of a crime, and upon conviction" preceding "shall be punished" and substituted "provided in this section" for "provided for in section 41-2-30" at the end of the subsection; and made changes in style and phraseology.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

## NOTES TO DECISIONS

### Constitutionality.

The Legislature's imposition of a stiffer punishment upon a driver whose license is revoked for drunk driving and who subsequently drives on that revoked license, than upon a driver

whose license is revoked for reasons not associated with alcohol, does not violate the right to equal protection. *State v. Chancellor*, 704 P.2d 579 (Utah 1985).

## COLLATERAL REFERENCES

**Am. Jur. 2d.** — 7A Am. Jur. 2d Automobiles and Highway Traffic § 148.

**C.J.S.** — 61 C.J.S. Motor Vehicles § 588.  
**Key Numbers.** — Automobiles ⇌ 324.

## 41-2-137. Violation of chapter — Class B misdemeanor.

A violation of this chapter is a class B misdemeanor, unless otherwise specified.

**History:** L. 1933, ch. 45, § 30; C. 1943, 57-4-33; L. 1967, ch. 83, § 1; 1983, ch. 99, § 9; 1986, ch. 178, § 25; C. 1953, 41-2-29; renumbered by L. 1987, ch. 137, § 37.

**Amendment Notes.** — The 1987 amendment renumbered this section which formerly

appeared as § 41-2-29; deleted former Subsection (b), dealing with penalties; and rewrote Subsection (a) and removed the subsection designation.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

## PART 2

## LICENSES — IMPAIRED PERSONS

### 41-2-201. Licensing of impaired persons — Medical review — Restricted license — Procedures.

(1) (a) As used in this section and Section 41-2-202, "impaired person" means a person who is afflicted with or suffering from a mental, emotional, or nonstable physical impairment or disease that may impair the person's ability to exercise reasonable and ordinary control at all times over a motor vehicle while operating it upon the highways.

(b) "Impaired person" does not include a person having a nonprogressive or stable physical impairment which is objectively observable and which may be evaluated by a functional driving examination.

(2) When the division has reason to believe that an applicant for a license may be an impaired person, the division may, at its discretion, require the applicant to complete one or both of the following:

(a) a physical examination by a physician or surgeon licensed to practice medicine in this state and the submittal by the examining physician or surgeon of a signed medical report indicating the results of the physical examination; the format of the report shall be devised by the division with the advice of the division's Driver License Medical Advisory Board and shall elicit the necessary medical information to determine whether it would be a public safety hazard to permit the applicant to operate a motor vehicle upon the highways;

(b) a follow-up medical review by a physician or surgeon and completion of the above described report at intervals established by the division under standards recommended by the Driver License Medical Advisory Board.

(3) The division may issue a restricted license to an impaired person who is otherwise qualified to obtain a license. The license continues in effect until its expiration date so long as the licensee complies with the requirements set forth by the division. The license is subject to renewal under the conditions of this section. Any physical, mental, or emotional impairment of the applicant which in the opinion of the division does not affect the applicant's ability to exercise reasonable and ordinary control at all times in operating a motor vehicle upon the highway does not prevent the issuance of a license to the applicant.

(4) (a) When an examination is required under this section, the division is not bound by the recommendation of the examining physician but shall give fair consideration to the recommendation in acting upon the application. The criterion is whether upon all the evidence it is safe to permit the applicant to operate a vehicle.

(b) In deciding whether to issue or deny a license, the division may be guided by the opinion of experts in the fields of diagnosing and treating mental, physical, or emotional disabilities and may take into consideration any other factors which bear on the issue of public safety.

(5) Information provided under this section relating to physical, mental, or emotional impairment is confidential.

**History:** C. 1953, 41-2-201, enacted by L. 1987, ch. 137, § 38.

#### COLLATERAL REFERENCES

**A.L.R.** — Denial, suspension, or cancellation of driver's license because of physical disease or defect, 38 A.L.R.3d 452.



**41-2-202. Driver License Medical Advisory Board — Membership — Guidelines for licensing impaired persons — Recommendations to division.**

(1) (a) In this section "board" means the Driver License Medical Advisory Board.

(b) The commissioner may create a Driver License Medical Advisory Board. The board is composed of three regular members appointed by the executive director of the Department of Health and assisted by expert panel members nominated by them as necessary and as approved by the executive director of the Department of Health. The regular members of the board serve as its executive committee and may act for the full board. They shall be assisted by expert panel members in recommending medical standards in the areas of the panel members' special competence for determining the physical, mental, and emotional capabilities of applicants for licenses and holders of licenses.

(c) In reviewing individual cases, a panel acting with the authority of the board consists of at least two members, of which at least one is a regular board member. The director of the division or his designee serves as secretary to the board and its panels. Members of the executive committee and expert panel members nominated by them shall be physicians licensed to practice medicine in all of its branches in this state. They shall receive per diem and expenses as determined by the director of the Division of Finance for each meeting of the board or one of its panels, to be paid as an operating expense by the division. The board shall meet from time to time when called by the director of the division.

(2) The board shall recommend written guidelines for determining the physical, mental, and emotional capabilities of applicants for licenses and for holders of the licenses. The guidelines are applicable to all individuals who hold current Utah licenses and for all individuals who hold learner permits and are participating in driving activities in all forms of driver education. The guidelines shall be published by the division, and are subject to the Utah Administrative Rulemaking Act.

(3) When the division has reason to believe that an applicant or licensee is an impaired person, it may:

(a) act upon the matter based upon the published guidelines; or

(b) convene a panel to consider the matter and submit written findings and a recommendation; the division shall consider the recommendation along with other evidence in determining whether a license should be suspended, revoked, denied, or restricted.

(4) When the division has acted under Subsection (3) to suspend, revoke, deny, or restrict the driving privilege, without the convening of a panel, the affected applicant or licensee may within ten days of receiving notice of the action request in writing a review of the division's action by a panel. The panel shall review the matters and make written findings and conclusions. The division shall affirm or modify its previous action.

(5) Actions of the division are subject to judicial review as provided in this part. The guidelines, standards, findings, conclusions, and recommendations of the board or of a panel are admissible as evidence in any judicial review.

(6) Members of the board and its panels incur no liability for recommendations, findings, conclusions, or for other acts performed in good faith and incidental to membership on the board or a panel.

(7) The division shall provide forms for the use of physicians in depicting the medical history of any physical, mental, or emotional impairment affecting the applicant's or licensee's ability to operate a motor vehicle.

(8) (a) Individuals who apply for or hold a license and have, or develop, or suspect that they have developed a physical, mental, or emotional impairment which may affect driving safety are responsible for reporting this to the division or its agent. If there is uncertainty, the individual is expected to seek competent medical evaluation and advice as to the significance of the impairment as it relates to driving safety, and to refrain from driving until a clarification is made.

(b) Physicians who care for patients with physical, mental, or emotional impairments which may affect their driving safety, whether defined by published guidelines or not, are responsible for making available to their patients without reservation their recommendations and appropriate information related to driving safety and responsibilities.

(c) A physician or other person who becomes aware of a physical, mental, or emotional impairment which appears to present an imminent threat to driving safety and reports this information to the division in good faith has immunity from any damages claimed as a result of making the report.

**History:** C. 1953, 41-2-202, enacted by L. 1987, ch. 137, § 39.

**Utah Administrative Rulemaking Act.** — See § 63-46a-1 and notes thereto.

**Cross-References.** — Division of Finance, § 63-1-12 et seq.

Executive director of Department of Health, §§ 26-1-8 to 26-1-17.

## PART 3

### COMMERCIAL DRIVER TRAINING SCHOOLS

#### 41-2-301. Definitions.

As used in this part:

(1) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to operate motor vehicles and to prepare an applicant for an examination given by the state for a license or learner permit, and charging a consideration or tuition for those services.

(2) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate motor vehicles or preparing to take an examination for a license or learner permit, and any person who supervises the work of any other instructor.

**History:** C. 1953, 41-2-301, enacted by L.  
1987, ch. 137, § 40.

#### **41-2-302. Rules — Inspections — Administration and enforcement.**

(1) The commissioner shall make rules as necessary concerning the administration and enforcement of this part and to protect the public.

(2) The commissioner or his authorized representative shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(3) The commissioner shall administer and enforce the provisions of this part, and may call upon the state superintendent of public instruction for assistance in formulating appropriate rules.

**History:** C. 1953, 41-2-302, enacted by L.  
1987, ch. 137, § 41.

**Cross-References.** — Superintendent of  
public instruction, § 53A-1-301 et seq.

#### **41-2-303. School license required — Contents of rules.**

(1) A commercial driver training school may not be established unless the school applies for and obtains a license from the commissioner.

(2) Rules adopted by the commissioner shall state the requirements for a school license, including requirements concerning locations, equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators and instructors, insurance as the commissioner determines necessary to protect the interests of the public, and other provisions the commissioner may prescribe for the protection of the public.

**History:** C. 1953, 41-2-303, enacted by L.  
1987, ch. 137, § 42.

#### **41-2-304. Instructor license required — Contents of rules.**

(1) A person may act as an instructor only if the person applies for and obtains a license from the commissioner.

(2) Rules adopted by the commissioner shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles and practices, previous personnel and employment records, and other provisions the commissioner may prescribe for the protection of the public.

**History:** C. 1953, 41-2-304, enacted by L.  
1987, ch. 137, § 43.

**41-2-305. License expiration and renewal — Fee required — Disposition of revenue.**

(1) All commercial driver training school licenses and instructor licenses expire on the last day of the calendar year and may be renewed upon application to the commissioner as prescribed by rule. Each applicant for an original or renewal school license or original or renewal instructor license shall be accompanied by a fee determined by the Department of Public Safety under Subsection 63-38-3(2). A license fee may not be refunded if the license is rejected, suspended, or revoked.

(2) The license fees collected under this part shall be placed in a fund designated as the "Commercial Driver Training Law Fund" and shall be used under the supervision and direction of the director of the department of finance [Division of Finance] for the administration of this part.

**History:** C. 1953, 41-2-305, enacted by L. 1987, ch. 137, § 44.

**Division of Finance.** — The reference to

the "department of finance" in Subsection (2) is apparently incorrect and should be to the Division of Finance. See § 63-1-12 et seq.

**41-2-306. Licenses — Cancellation, revocation, or refusal to issue or renew — Ineligibility for license.**

The department may cancel, revoke, or refuse to issue or renew a school or instructor license if it finds the licensee or applicant has not complied with, or has violated any of the provisions of this part or any rule adopted by the commissioner. Any canceled or revoked license shall be returned to the commissioner by the licensee, who is not eligible to apply for a license under this part until six months have elapsed since the date of the cancellation or revocation.

**History:** C. 1953, 41-2-306, enacted by L. 1987, ch. 137, § 45.

**Meaning of "department".** — See note under same catchline following § 41-2-118.

**41-2-307. Exemption for college, university, and high school programs.**

The provisions of this part do not apply to any person giving driver training lessons to schools or classes conducted by colleges, universities, and high schools for regularly enrolled full-time students as a part of the normal program for the institutions.

**History:** C. 1953, 41-2-307, enacted by L. 1987, ch. 137, § 46.

**41-2-308. Local boards of education may conduct class for adults.**

Local boards of education, with the consent of the commissioner, may conduct classes in driver education for adult members of the district in those areas of the state where no commercial driver training course is available, and may charge a fee not to exceed the cost of the training.

**History:** C. 1953, 41-2-308, enacted by L. 1987, ch. 137, § 47.

### **41-2-309. Violations — Penalties.**

Violation of any provision of this part is a class B misdemeanor.

**History:** C. 1953, 41-2-309, enacted by L. 1987, ch. 137, § 48.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

## **PART 4**

### **CARD OF IDENTIFICATION**

#### **41-2-401. Definitions.**

As used in this part:

- (1) "Adult" means a person 21 years of age or older.
- (2) "Card" means a card of identification issued under this part.
- (3) "Minor" means a person younger than 21 years of age.

**History:** C. 1953, 41-2-401, enacted by L. 1987, ch. 137, § 49.

#### **41-2-402. Application for identification card — Age requirements — Application on behalf of others.**

(1) A person at least 16 years of age or older may apply to the commissioner of public safety for a card of identification under this part.

(2) A person younger than 16 years of age may apply to the commissioner of public safety for a card of identification under this part with the consent of the applicant's parent or guardian upon application.

(3) If a person is unable to apply for the card due to his youth or incapacitation, the application may be made on behalf of that person by his parent or guardian. The commissioner shall determine requirements of identification and consent of the applicant to be provided by the parent or guardian upon application.

**History:** C. 1953, 41-2-402, enacted by L. 1987, ch. 137, § 50.

#### **41-2-403. Application for identification card — Required information.**

To apply for a card of identification, the applicant shall appear in person at any license examining station. The applicant shall provide the following information:

- (1) true and full legal name and address;
- (2) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;
- (3) Social Security number;

- (4) place of birth;
- (5) height and weight;
- (6) color of eyes and hair;
- (7) signature;
- (8) photograph; and
- (9) organ donor indication, if desired.

History: C. 1953, 41-2-403, enacted by L.  
1987, ch. 137, § 51.

#### **41-2-404. Identification card — Contents — Specifications.**

(1) The commissioner shall issue a card of identification which provides all the information contained in the application, other than place of birth, and a photograph of the applicant and facsimile of the applicant's signature.

(2) The card shall be of an impervious material, resistant to wear, damage, and alteration. The size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) The card may also indicate the applicant's intent to make an anatomical gift, under the same procedure as provided for an operator license under Subsection 41-2-121(3).

History: C. 1953, 41-2-404, enacted by L.  
1987, ch. 137, § 52.

#### **41-2-405. Minor's card distinguishable.**

The card issued to a minor shall be distinguished by the use of the plainly printed word "minor" or the use of a special color not used for the card issued to adults.

History: C. 1953, 41-2-405, enacted by L.  
1987, ch. 137, § 53.

#### **41-2-406. Expiration.**

(1) The card expires on the birth date of the applicant in the fourth year following the issuance of the card, except under Subsection (2).

(2) A card issued to a minor expires on his 21st birthday, if that date occurs before the expiration date of the card under Subsection (1). The card may then be renewed as an adult card, and expires as provided under Subsection (1).

History: C. 1953, 41-2-406, enacted by L.  
1987, ch. 137, § 54.



**41-2-407. Fee required — Disposition of revenue.**

The commissioner shall charge and collect a fee under Section 41-2-103 when the application is submitted. All money collected under this part is administered under Section 41-2-120.

**History:** C. 1953, 41-2-407, enacted by L. 1987, ch. 137, § 55.

**41-2-408. Revocation of card for providing false information or altering card.**

The commissioner shall revoke and repossess the card of identification of any person who has furnished false or forged information or evidence in support of any application for any card or who has altered any information or photograph on a card of identification.

**History:** C. 1953, 41-2-408, enacted by L. 1987, ch. 137, § 56.

**41-2-409. Violations.**

It is a class B misdemeanor to:

- (1) give false information on an application for the purpose of procuring a card of identification;
- (2) knowingly possess or have under one's control an altered or fictitious card of identification;
- (3) alter any information or photograph contained on a card of identification;
- (4) knowingly issue an adult card of identification to any person younger than 21 years of age; or
- (5) violate any provision of this part.

**History:** C. 1953, 41-2-409, enacted by L. 1987, ch. 137, § 57.

**Cross-References.** — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

**PART 5****DRIVERS' LICENSE COMPACT****41-2-501. Ratification.**

The Drivers' License Compact is hereby unconditionally ratified, approved and confirmed for and by the state of Utah, and is entered into with all other jurisdictions legally joining therein.

**History:** C. 1953, 41-2-501, enacted by L. 1987, ch. 137, § 58.

**41-2-502. Text of compact — Party states to report traffic violations and exchange driving record information in home state of driver.**

The text of the Drivers' License Compact is:

**DRIVERS' LICENSE COMPACT**

**ARTICLE I**

**Findings and Declaration of Policy**

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the over-all compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance of issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

**ARTICLE II**

**Definitions**

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

## ARTICLE III

## Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

## ARTICLE IV

## Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) any felony in the commission of which a motor vehicle is used; and

(4) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in Subsection (a) of this article, such party state shall construe the denominations and descriptions appearing in Subsection (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given in this article.

## ARTICLE V

## Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

## ARTICLE VI

### Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

## ARTICLE VII

### Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

## ARTICLE VIII

### Entry into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

## ARTICLE IX

## Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** C. 1953, 41-2-502, enacted by L. 1987, ch. 137, § 59.

**41-2-503. "Licensing authority" defined.**

As used in the compact, the term "licensing authority" with reference to this state, shall mean the Department of Public Safety and/or its division of drivers' licenses, as the text may require. This department shall furnish to the appropriate authorities of other party states any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact.

**History:** C. 1953, 41-2-503, enacted by L. 1987, ch. 137, § 60.

**Meaning of "compact".** — The term "compact," referred to in this section, apparently means the Drivers' License Compact. See § 41-2-502.

**Cross-References.** — Department of Public Safety, Chapter 13 of this title.

Division of Drivers' License and Accident Records, § 41-13-7.

**41-2-504. Expenses of compact administrator.**

The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

**History:** C. 1953, 41-2-504, enacted by L. 1987, ch. 137, § 61.

**Meaning of "compact".** — See note under same catchline following § 41-2-503.

**41-2-505. Executive head means governor.**

As used in the compact with reference to this state, the term, "executive head" shall mean the governor.

**History:** C. 1953, 41-2-505, enacted by L. 1987, ch. 137, § 62.

**Meaning of "compact".** — See note under same catchline following § 41-2-503.

**41-2-506. Courts and agencies shall report actions to department.**

Any court or other agency of this state, or a subdivision thereof, which has jurisdiction to take any action suspending, revoking or otherwise limiting a license to drive, shall report any such action and the adjudication upon which it is based, to the department within ten days on forms approved and furnished by the department.

**History:** C. 1953, 41-2-506, enacted by L. 1987, ch. 137, § 63.

**Meaning of "department".** — See note under same catchline following § 41-2-118.

**PART 6****NONRESIDENT VIOLATOR COMPACT****41-2-601. Authority to enter compact.**

The director of the driver license division is authorized and directed to execute all documents and perform all other acts necessary to enter into and carry out the provisions of this Nonresident Violator Compact.

**History:** C. 1953, 41-2-601, enacted by L. 1987, ch. 137, § 64.

this section, apparently means this part (§§ 41-2-601 to 41-2-609).

**Nonresident Violator Compact.** — The Nonresident Violator Compact, referred to in

**Cross-References.** — Division of Drivers' License and Accident Records, § 41-13-7(3).

**41-2-602. Definitions.**

As used in this part:

(1) "Citation" means a summons, ticket, or other official document issued by a police officer for a traffic violation, containing an order which requires the motorist to respond.

(2) "Collateral" means cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver license" means a license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.



(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Police officer" means an individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(11) "Terms of the citation" means those options expressly stated upon the citation.

History: C. 1953, 41-2-602, enacted by L. 1987, ch. 137, § 65.

### **41-2-603. Procedure for issuing a traffic citation to a non-resident violator.**

The following is the procedure of the issuing jurisdiction:

(1) When issuing a citation for a traffic violation, a peace officer shall issue the citation to a motorist who possesses a driver license issued by a party jurisdiction and shall not, subject to the exceptions noted in Subsection (2), require the motorist to post collateral to secure appearance if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(2) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(3) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(4) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content as contained in the compact manual.

(5) The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

(6) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(7) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

History: C. 1953, 41-2-603, enacted by L. 1987, ch. 137, § 66.

#### **41-2-604. Procedure for home jurisdictions upon report of a licensee's failure to comply with out-of-state authority.**

The following is the procedure for the home jurisdiction:

(1) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction may notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, and suspend the motorist's driver license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(2) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

History: C. 1953, 41-2-604, enacted by L. 1987, ch. 137, § 67.

#### **41-2-605. Rights of party jurisdictions not affected by compact.**

Except as expressly required by provisions of the compact, nothing contained in this act shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

History: C. 1953, 41-2-605, enacted by L. 1987, ch. 137, § 68.

Meaning of "compact". — The term "compact," referred to in this section, apparently means the Nonresidential Violator Compact, i.e., this part (§§ 41-2-601 to 41-2-609).

Meaning of "this act". — The term "this act," referred to in this section, means Laws 1987, ch. 137, which appears as various sections throughout this title. See the Tables of Session Laws in the Parallel Tables volume.

#### **41-2-606. Compact administrator.**

The director of the driver license division shall be the compact administrator for the state of Utah.

History: C. 1953, 41-2-606, enacted by L. 1987, ch. 137, § 69.

Meaning of "compact". — See note under same catchline following § 41-2-605.

Cross-References. — Division of Drivers' License and Accident Records, § 41-13-7(3).

**41-2-607. Effective date of compact.**

The effective date of entry of the state of Utah shall be July 1, 1983, or the 61st day after notice of acceptance required by the compact has been given, whichever comes later.

**History:** C. 1953, 41-2-607, enacted by L. 1987, ch. 137, § 70.

**Meaning of "compact".** — See note under same catchline following § 41-2-605.

**41-2-608. Violation exempted from compact.**

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

**History:** C. 1953, 41-2-608, enacted by L. 1987, ch. 137, § 71.

**Meaning of "compact".** — See note under same catchline following § 41-2-605.

**41-2-609. Amendment to compact procedures — Suspension for noncompliance omitted from driving record reports.**

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(2) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective 30 days after the date of the last endorsement.

(3) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment shall constitute endorsement. No report authorized by Section 41-2-119 shall contain any evidence of a suspension that occurred as a result of failure to comply with the requirements of this part.

**History:** C. 1953, 41-2-609, enacted by L. 1987, ch. 137, § 72.

**Meaning of "compact".** — See note under same catchline following § 41-2-605.

## CHAPTER 3

# DEALERS, SALESMEN, MANUFACTURERS, TRANSPORTERS AND WRECKERS

**Sunset Act.** — Section 63-55-7 provides that Chapter 3, Title 41 terminates on July 1, 1997.

**Section**

41-3-1. Repealed.

41-3-2. Sale by dealer, sale by auction —  
Temporary permit — Certificate of  
title or origin delivery — Notice to

**Section**

41-3-3. department — Class A misdemeanor for violation.  
Violation of chapter as misdemeanor  
— Action by violator prohibited.